THE

WEEKLY ENTERTAINER.

For MONDAY, March 4, 1793.

Extracts from the Address of Sir Archibald Macdonald, Knt. his Majesty's Attorney General, to the Gentlemen of the Jury who brought in Thomas Paine guilty of a Libel, in publishing "The Second Part of the Rights of Man," delivered December 18, 1792.

(Continued from Page 178.)

GENTLEMEN OF THE JURY,

HAS he ſtated with any ſort of fairneſs, or has he at all ſtated or adverted to the many, many remedies we have for any defect of that ſort? Has he ſtated the numerous councils of a King? His council of Parliament—his council of his Judges in matters of law—his Privy Council? Has he ſtated the reſponſibility of all thoſe councils? Some in point of character, ſome of perſonable reſponſibility? Has he ſtated the reſponſibility of thoſe immediate ſervants who conduct his executive government? Has he ſtated the appointment of regents? Has he ſtated all this, which is indiſpenſibly neceſſary towards a fair and honeſt diſcuſſion (which this book will poſſibly be called) of this point of his inſuperable objection to hereditary monarchy? Can this be called any other than groſs ſuppreſſion and wilful mis-ſtatement, to raiſe diſcontent in half-informed minds?

There does come acroſs my mind at this moment, unqueſtionably, one illuſtrious exception to that doctrine I have ſtated, of men not the moſt capable of government having in

general been choſen in the caſe of elective monarchies; and that is a man whom no indignities, no misfortunes, no diſappointments, no civil commotions, no provocations, ever forced from the full and ſteady poſſeſſion of a ſtrong mind, which has always riſen with elaſticity under all the preſſures that I have ſtated; and he, though not in one ſenſe of that word a great *Prince*, yet is certainly a great *Man*, who will go down as ſuch to the lateſt poſterity: I mean the King of Poland. Don't imagine, gentlemen, that my adverting to this illuſtrious character is uſeleſs. Every gentleman who hears knows he had a conſiderable part of his matured education in this country. Here he familiarized himſelf with the conſtitution of this country. Here he became informed of the proviſions of what this man calls the Bill of Wrongs and Inſults, without diſparagement to him, for I believe him to be a juſt and wiſe prince, of great natural faculties; here it was that he ſaw, and could alone learn how the regal government of a free people was conducted, and that under a prince of the houſe of Brunſwick.

Gentlemen, having ſtated thus much to you, I will now, for want of ſuitable expreſſions, (for mine are very feeble) borrow from another; I certainly have formed an opinion upon this ſubject preciſely ſimilar; to deliver it in plain words would exhauſt the utmoſt of my powers, but I will borrow the words of a very able writer, who has moſt properly, for fear ſome ill impreſſion ſhould be made by this book on the weaker part of mankind in America, given an anſwer to this book of Mr. Paine. That diſtinguiſhed gentleman, I have reaſon to believe, though not the chief magiſtrate in that country, is the ſecond in the executive government of it; that is, he is ſecond in the exerciſe of the regal part of the government of that country. He takes care to confute accurately what Mr. Paine ſays with reſpect to America; but, borrowing his *words*, I beg to be underſtood, that this is my *opinion* of the work before you, and which I humbly offer for your conſideration and adoption. He ſays, "his intention appears evidently to be, to convince the people of Great Britain, that they have neither liberty nor a conſtitution; that their only poſſible means to produce thoſe bleſſings to themſelves, is to topple down head-long their preſent government, and follow implicitly the example of the French."

Gentlemen, the next paſſage, which I beg to be underſtood as mine, I wiſh I could expreſs it as well myſelf, it this:—"Mr. Paine, in reply, cuts the Gordian knot at once, declares the

the Parliament of 1688 to have been downright uſurpers, cenſures them for having unwiſely ſent to Holland for a King, denies the exiſtence of a Britiſh Conſtitution, and invites the people of England to overturn their preſent government, and to erect another upon the broad baſis of national ſovereignty and government by repreſentation. As Mr. Paine has departed altogether from the principles of the Revolution, and has torn up by the roots all reaſoning from the Britiſh Conſtitution, by the denial of its exiſtence, it becomes neceſſary to examine his work upon the grounds which he has choſen to aſſume. If we judge of the production from its apparent tendency, we may call it an addreſs to the Engliſh nation, attempting to prove that they have a right to form a new Conſtitution; that it is expedient for them immediately to exerciſe that right, and that in the formation of this Conſtitution they can do no better than to imitate the model ſet before them by the French National Aſſembly. However immethodical his production is, I believe the whole of its argumentative part may be referred to theſe three points: If the ſubject were to affect only the Britiſh nation, we might leave them to reaſon and act for themſelves; but theſe are concerns equally important to all mankind; and the citizens of America are called upon, from high authority, (he alludes to a gentleman in a high ſituation in that country, who has publiſhed an opinion of this book) to rally round the ſtandard of this champion of revolutions. I ſhall, therefore, now proceed to examine the reaſons;" and ſo he goes on.

Gentlemen, I would adopt, with your permiſſion, a few more words from this publication:—" When Mr. Paine invited the people of England to deſtroy their preſent government, and form another conſtitution, he ſhould have given them ſober reaſoning, and not flippant witticiſms." Whether that is or not the caſe what I have read to you to-day will enable you to judge. " He ſhould have explained to them the nature of the grievances by which they are oppreſſed, and demonſtrated the impoſſibility of reforming the government in its preſent organization. He ſhould have pointed out ſome poſſible method for them to act, in their original character, without a total diſſolution of civil ſociety among them; he ſhould have proved what great advantages they would reap as a nation from ſuch a revolution, without diſguiſing the great dangers and formidable difficulties with which it muſt be attended." So much for the paſſages themſelves, and this interpretation, which I humbly ſubmit to your conſideration.

The next matter upon which I ſhall proceed is the evidence which I propoſe to adduce, and that evidence will go to ſhew, not only the fact of this man's being the writer of this book, by his own repeated admiſſion, and by letters under his own hand, but will likewiſe go directly to ſhew what is his intent in ſuch publication, which appears I think moſt clearly; and over and above that I ſhall produce to you a letter, which this man was pleaſed to addreſs to myſelf in which letter he avows himſelf in ſo many words the author, and I ſhall prove it to be his hand-writing; and further than that, there is matter in that letter, apparently ſhewing the intention with which that book was written, namely to villify this conſtitution, and to injure this country irretrievably.

Two other letters I ſhall be under the neceſſity of reading to you, in which he has ſtated himſelf the author. The one is a letter to a perſon of the name of Jordan, in which he expreſſes himſelf in this manner:

"February 16, 1792, (that was the day on which the book was publiſhed). For your ſatisfaction and my own I ſend you the incloſed, though I do not apprehend there will be any occaſion to uſe it: If in caſe there ſhould, you will immediately ſend a line for me, under cover, to Mr. Johnſon, St. Paul's Church Yard, who will forward it to me, upon which I ſhall come and anſwer perſonally for the work; ſend alſo for Mr. Horne Tooke.

"T. P."

The letter incloſed was this; addreſſed to the ſame man, Jordan, the bookſeller.—"Sir, ſhould any perſon, under the ſanction of any kind of authority, enquire of you reſpecting the author and publiſher of the Rights of Man, you will pleaſe to mention me as the author and publiſher of that work, and ſhew to ſuch perſon this letter. I will, as ſoon as I am acquainted with it, appear and anſwer for the work perſonally."

(To be concluded in our next.)

REMARKS on SNEEZING.

AMONGST the ancients, ſneezing was ſometimes accounted a lucky omen. Caſaubon however remarks, that they thought it a ſymptom of ſome infirmity. Hence, after ſneezing, a ſhort prayer was uſually put up to the Gods; ſuch as, "Jupiter ſave me!"

Strada

Strada wrote a Treatise on Sneezing, wherein he tells us, that the custom of saluting those who sneeze is a relick of Paganism. The origin of this custom has been generally thought of a later date—being referred by some to that dreadful era in the records of mortality, when sneezing was an epidemick disease, accompanied by death.

See notes on the Idyllia of Theocritus, lately translated by the Rev. R. Polwhele. Idyll. 7.

INTERESTING TRIALS.

LINCOLN's-INN HALL.

TUESDAY, January 15.

THIS day the first Seal was held at Lincoln's-Inn Hall, before the Lord Commissioners.

BANKRUPTCY.

The late Lord Chancellor had made an order for the payment of interest on a certain sum of money, and the question was, whether that order should or should not be confirmed?—The circumstances of this case were these—Mr. Hankey, banker, in the city of London, had lent 13,000l. to Messrs. Swanston and Mills, and took of them four notes to that amount, payable on demand, and one of them for 3000l. payable with interest. This transaction, which on its commencement was without writing, began in 1772, and Messrs. Swanston and Mills became bankrupts in 1781. During these nine years, viz. from 1772 to 1781, there were fifteen settlements between the parties, and at all these settlements Mr. Hankey was allowed interest at 5 per cent. for this 13,000l.

The estate of the bankrupts lay principally in the West Indies, and this bankruptcy was not finally arranged and settled till the year 1791, when it was found that the bankrupts, after paying 20s. in the pound, had a surplus; and the question was, whether Mr. Hankey was entitled to interest out of that fund for his 13,000l. from the year 1781, the date of the commission, till the year 1791, when this business was finally adjusted.

On the one hand it was contended by Messrs. Mansfield, Hollas, and Cooke, that Mr. Hankey was entitled to interest. Much stress in the course of the arguments was laid on the case of

of Broomley and Goodier, decided by Lord Hardwicke in the year 1743; that is 50 years ago. That caſe applied to intereſt due under bonds and promiſſory notes. But it was ſubmitted that there was no difference whatever, whether money was due under bond or promiſſory note, or any other contract, provided it was payable with intereſt. It was of no conſequence whether the contract had been reduced into writing or not. One of the four notes on the face of it was payable with intereſt, becauſe intereſt was expreſsly mentioned, and therefore there was no doubt of it; and although the intereſt was not mentioned on the other three notes, as little doubt could be entertained about them. From the year 1772 to the year 1781, when the bankruptcy happened, there were fifteen ſettlements, and at all theſe Mr. Hankey was allowed at the rate of 5 per cent. for his 13,000l.—This was a ſtrong demonſtration that the original agreement between the parties was, that intereſt at 5 per cent. ſhould be paid for this large ſum. If this wanted any corroboration, it was ſtrengthened by Mr. Hankey having made affidavit that this 13,000l. was actually lent at 5 per cent.

It was unneceſſary to be ſtated on the face of the notes, that they were payable with intereſt. They were payable on demand, and therefore if a demand was made and the money not paid, intereſt was due from that moment, though it was not mentioned in the notes. In like manner, when a note was payable at a certain day, and a demand was made that day, and not complied with, intereſt began to run. If an action had been brought on theſe notes, a jury would have allowed intereſt in the nature of damages. Some great men had differed how much that intereſt ſhould be. The Lord Chief Juſtice of the King's Bench, thought 4 per cent. was ſufficient.—This was at the rate of intereſt given by the Court of Chancery.—Others entertained a different opinion. The only giving 4 per cent. might perhaps have ſome effect on ſome gentlemen of the city of London, who made ſeven or eight per cent. of their money. It was ſubmitted that there was no ſubſtantial difference on the nature of damages and intereſt in this caſe. It was even thought that an action of debt might be maintained for the intereſt as well as the principal.

Mr. Solicitor General on the other ſide, in a moſt ingenious and elaborate ſpeech, ſtated a number of ſtrong objections to the caſe of Bromley and Goodier, upon which ſo much ſtreſs had been lain by his learned friends on the other ſide. He obſerved,

ſerved, that if he had lived in the year 1743, he ſhould have entered into a rebellion againſt the caſe before the year 1745.

This was a hard caſe, and deſerved their Lordſhips' moſt particular attention. He conceived, notwithſtanding all that had been ſaid, that there was not a ſufficient degree of evidence in this caſe to prove that this loan of 13,000l. was intended to bear intereſt. The contract had been reduced into writing. Written evidence was the beſt, and therefore the only evidence. When therefore no intereſt was mentioned in theſe notes, were they to admit parole evidence to contradict this written evidence, and to ſhew that they were to be paid with intereſt. Was the ſame effect to be given to all the four notes, although one of them was payable with intereſt on the face of it, and in the other three not one word of intereſt was mentioned. It had been ſtated by his learned friends, that intereſt had actually been paid for nine years; but ſuppoſe the bankruptcy had happened ſix months after the loan, Mr. Hankey could only have recovered the amount of the principal in theſe three notes, and if ſo, he could recover no more than the principal, although the bankruptcy did not happen till twenty years after the date of the loan; but ſuppoſing intereſt was to be paid, attention was to be had to time and circumſtances.—He ſaw neither law nor juſtice when the value of money was only 3 per cent. for a court or jury to allow 5 per cent. Further, ſuppoſe intereſt was to be paid for this 13,000l. during the time Swanſton and Mills had the uſe of it, yet it was extremely unſeaſonable to demand any intereſt for it ſubſequent to the date of the commiſſion, when the eſtate was taken from the bankrupts and put into the hands of the aſſignees.

Mr. Hankey had declared, that he had nothing for his money but the intereſt. The learned Counſel could not ſee that, when Swanſton and Mills, prior to their bankruptcy, were paying into the houſe of Hankey very large ſums of money, ſometimes more than 13,000l. for which they received no intereſt at all.

The Lord Commiſſioner Eyre ſaid, that the obſervations made in the caſe of Bromley and Goodier, made a ſtrong impreſſion on his mind, and if that caſe were now open to reviſion, he would not ſay how they might decide, but now that this caſe had ſtood as law for 50 years, he thought himſelf bound by it, and he thought the preſent caſe came directly within the principle of Bromley and Goodier. He conceived in this caſe it was very clear that the contract between the parties was to pay intereſt as long as they had the uſe of the money,

money, that is up to the bankruptcy; and his Lordſhip thought the parties, at the time of the contract, could have no idea of the bankruptcy which happened nine years after, and therefore, if it was a contract for intereſt, it would go to the time ſubſequent to the commiſſion, as well as to that which preceded it, and if ſo the Chancellor's order was right.

Commiſſioner Aſhhurſt thought they muſt now conſider the caſe of Bromley and Goodier to be law, and then he could not diſtinguiſh the principle of the two caſes. Beſides theſe notes were payable on demand, and the Court might ſuppoſe that a demand was made and not complied with, and therefore intereſt would run from that time. But here his Lordſhip conceived there was abundant evidence that the contract was to pay intereſt.

Commiſſioner Wilſon thought this a very weighty and a difficult queſtion. He wiſhed it had come in by bill inſtead of petition, that it might have been determined with more ſolemnity. If the caſe of Bromley and Goodier was wrong, and yet was continued, he did not know to what miſchievous conſequences it might in time lead. If it was right, he muſt admit that the preſent caſe muſt be governed by it.

No intereſt could be due on notes payable on demand till a demand had once been made; and as in this caſe there was no evidence of ſuch a demand, he muſt ſuppoſe that no demand was made. He was inclined, however, to ſubmit on the authority of Bromley and Goodier.

The Lord Commiſſioner ſaid, the order of the late Chancellor for proving the intereſt of this money ſubſequent to the Commiſſion muſt be confirmed.

Commiſſioner Wilſon thought it would be miſchievous.

The Lord Commiſſioner obſerved, in caſes of bankruptcy it but very rarely happened that there was any ſurplus.

COURT *of* KING's BENCH,

THURSDAY, January 31.

HOPE AND OTHERS, *verſus* CHAMPION AND OTHERS.

ON Wedneſday laſt came on to be tried at Guildhall, London, before Mr. Juſtice Buller and a reſpectable jury, a cauſe of importance to owners and Captains of ſhips.

 This

This action was brought by Messrs. Hope, Liddle, Scott, and Hurry, owners of the ship Friends, and considerable ship-owners at North Shields, against the defendants Messrs. Campion, Coates, Holt, Lacy, and Campion, owners of the ship Recovery, of Whitby. It appeared by the evidence of the plaintiffs' witnesses, the pilot, the mate, the carpenter, and another of the ship's company, that in the month of August last the ship Friends came up to Blackwall in the day-tide, and there anchored, and that in the night-tide, the weather being serene and fine at the time, the ship Recovery also came up to Blackwall, and dropt her anchor close under the ship Friends, thereby giving her a foul birth; upon which the mate of the Friends called to the Recovery's people to remove, as otherwise they must, on the turn of the tide, swing foul of each other's anchor; but which the Recovery's people refused to do, at the same time bidding the mate take care of his own ship, and not trouble himself with them. The event, however, verified the mate of the Friends' opinion, for at low water, on the ship's swinging, the Recovery ran foul of the Friends' anchor, broke it, and set the Friends adrift, and before she could let go another anchor and bring up, she ran foul of another ship which lay astern of her, and thereby sprung her mizen-mast, and carried away all her mizen rigging, and tore her mizen to pieces, which the defendants refused to make good or repair.

This action was therefore brought to recover the amount of the damages sustained by the ship Friends, which was opposed by the defendants in a very lame defence, on the ground that they had also received damage, and would pay the plaintiffs' damage, if plaintiffs would pay their's; and contending, that if the plaintiffs foresaw the probability of danger, they ought to have moved their ship to avoid it. To prove which, the defendants called a pilot and a publican, who not being able to prove any thing in favour of the defendants, attempted to prove that the ship Friends had ran foul of and broke her own anchor, but with no better effect; the defendants' Counsel observing, he wished they were safe moored somewhere else, as he could make nothing of them.

The learned Judge summed up the evidence to the Jury with great impartiality, observing that he should be sorry if such a custom was but for a moment to prevail, as that a ship safe moored should be obliged to give way to another who wished to come in her place.

 The

The Jury without hesitation gave a verdict for the plaintiffs to the full amount of the damages sustained.

Overseers of the Poor.

AN indictment had been preferred against the overseers of the poor of a particular parish, for disobeying the orders of a magistrate, which commanded them to administer private relief to a parishioner, whose name was mentioned in the said order.

It appeared in evidence before the Court, in consequence of an act of Parliament, (and such acts were very general over the kingdom) that the power of administering relief, which by the common law was vested in the overseers of the poor, was transferred to the guardians of the poor; and that consequently the overseers had been guilty of no offence. The act provided, that a work-house should be erected, and that all the poor of the parish should resort there for relief.

It was contended by Mr. Mingay, that it was a great hardship and inconvenience, that boys and girls, as well as the aged and infirm, who were incapable of supporting themselves, should be obliged to leave their own habitations, where they had resided many years, as well as the society of their friends and relations, for the purpose of going to a distant part of the parish, to be maintained in a work-house, and perhaps to be shut up in the same apartment with the sick and the diseased.— He conceived private relief was much preferable.

The Court were of opinion, that these acts of Parliament, which had been extremely general over the kingdom, and which had provided that work-houses should be erected for the poor, had been attended with the most salutary consequences. At first people did not like to go into them. But some time afterwards, the poor, by having conversed with those who had been in them, and who had found their situation so much more comfortable than at their own dwellings, had been glad to get into them. The hardship and inconvenience stated by the learned Counsel, were purely imaginary; and the guardians of the poor would take care, as was done in other cases, that there should be separate rooms for the sick, and that they should not be mixed with those in perfect health. Sometimes private relief was administered to individuals, and with great propriety. But the Court thought they could not interfere with the guardians of the poor, but leave it entirely to them. With respect to

to the conveniences of these houses, instead of poor persons wandering about in the streets, dirty, idle, and unoccupied, since these acts of Parliament the poor had been instructed in the principles of morality and religion. Many of these houses had a chaplain, who did duty twice a day. They were kept clean, and were obliged to do some work. This was much better than to send them out into the streets, with a shilling in their pockets, to live at their own houses, in the character of paupers.

The Court was clearly of opinion that the overseers of the poor had done their duty.

ELSEY *versus* GARDE.

THIS was a case which the Court considered to be of some importance. A carpenter voluntarily undertook to build a house for a man, but so far from keeping his promise, never proceeded in the building. An action was commenced against him for a breach of this promise, and the question for the opinion of the Court was, Whether the action could be maintained?

It was contended by the Counsel for the plaintiff, that as the defendant, if he had built the house, could have proceeded at law to recover his bill, so he ought to be liable to an action for non-feazance, by neglecting so to do.

The Counsel on the other side cited many cases to shew that this action was not maintainable.

The Court said, that a common porter, (one of the cases cited by the Counsel), was certainly obliged to carry messages, &c. in like manner as an inn-keeper was compelled to receive guests and travellers; but the case was different with respect to carpenters, who were not obliged to build a house for any person, unless they pleased. The promise in question was merely voluntary, and therefore the action could not be maintained, for it was not founded upon a contract.

COURT *of* KING's BENCH,

SATURDAY, February 2.

PRIESTMAN *versus* GODDARD.

THIS was a cause of general importance to the trading world.

It was an action of trover, to recover a bill of exchange value 20l. drawn by a Mr. Kemmings, upon ————, and accepted by the defendant.

Mr. Bearcroft, Counsel for the plaintiff, said, that his client was a pawnbroker, and had received the bill in question from a Mr. Knight, without knowing it had been lost. He apprehended the law to be this:—If a man lost a guinea he had marked, and another person picked it up, and went to market with it, the person with whom he had laid it out, had no right to return it to the owner, provided he took it under no circumstances of fraud. This law particularly applied to bills of exchange, a species of paper-money, without which trade and commerce could not be carried on.

A shopman to Mr. Priestman said, that Mr. Knight brought the bill to his master's shop, and gave it in payment for a watch and seal: the witness had known Knight a long time before, by his having pledged several valuable articles; he never heard that he was a swindler; nor did he know his place of residence, but was informed by Knight, that his place of abode was in Compton-street; the bill was taken, without hesitation or inquiry, merely upon the credit of the acceptor. When the bill got into the hands of the defendant, he detained it as one that had been lost and advertised.

It was proved, on the part of the defendant, that a pocket-book, containing, among other things, the bill in question, was lost, and immediately advertised in the Daily Advertiser.—Hand-bills were also distributed in different parts of the metropolis. The bill was dated at Alexandria.

It appeared, that the plaintiff never took in the Daily Advertiser.

Lord Kenyon said, that the question for the determination of the Jury would be, Whether, when the defendant received this bill from Knight, he exercised due care and attention to discover if it was a good bill. If a man took a bill that had been lost, under circumstances of fraud, or with a want of due care and caution, he must sustain the loss produced by his own conduct. His Lordship left the whole case to the consideration of the Jury.

The Jury gave a verdict for the defendant.

ROBERTS *versus* SEDCOLE.

THIS was an action brought by the plaintiff against the defendant, for cutting and destroying a hedge in a piece of common

mon field ſituate at Enfield Highway, in the county of Middleſex, held by the defendant as tenant at will, the fact being clearly proved to the Court and Jury (which was a ſpecial one), when after hearing many evidences on the part of the defendant in ſupport of the pretended right of cutting hedges in the common field lands aforeſaid, the Jury found a verdict for the plaintiff.—Damages 5l.

The above deciſion is very material to huſbandmen, on account of its determining that no tenant is juſtifiable in cutting up or deſtroying a hedge in any field whatever (whether common or otherwiſe), being a point hitherto much diſputed by the occupiers of land.

COURT *of* KING's BENCH.

MUTINY ACT.

A Soldier had been impriſoned for having a natural child; and the queſtion was, whether he ought not to be diſcharged?

Mr. Lowndes obſerved, that the mutiny act had made a part of the ſtatute law of this country, ever ſince the Revolution, and that it had undergone conſiderable changes. By this act, as it ſtood in the 7th Ann. c. 4, ſect. 65, no ſoldier, who had entered voluntarily into his Majeſty's ſervice, could be taken out of that ſervice, except for *ſome criminal matter*. By the ſame act, as it ſtood in the 4th of Geo. I. no ſoldier could be taken out of his Majeſty's ſervice, and thrown into gaol, except for the commiſſion of ſome crime, or at the inſtance of ſome creditor, whoſe debt was at leaſt 20l. Theſe therefore were the only two reaſons for which a ſoldier could be arreſted.

The learned Counſel contended that incontinence was not a crime by the law of England, and that therefore that ſoldier muſt be diſcharged.

Lord Kenyon ſaid, that it was for the firſt time he had heard that incontinence was not an offence. If it was not the Spiritual Courts had acted improperly ſince their firſt inſtitution. He was clearly of opinion, that the Magiſtrates who committed the ſoldier had done no more than their duty.

Account

Account of an Extraordinary Converſion.

To the PRINTER.

SIR,

GIVE me leave to preſent you with a narrative which is given by a maternal anceſtor of mine, Thomas Gage, whoſe "Survey of the Weſt Indies," publiſhed in the laſt century, is known to literary men; but it is not generally known, that, in conſequence of his communications, the expedition againſt the Spaniards in the Weſt Indies, which was commanded by Penn and Venables, in the time of Oliver Cromwell, was undertaken, and from which this country derives the poſſeſſion of the iſland of Jamaica.

His family being of the Romiſh religion, and he himſelf the youngeſt ſon, he was, according to the prevailing cuſtom, educated for the church, and became an officiating prieſt. In this character he accompanied certain miſſionaries from the port of Cadiz, in the Flota, to Mexico, or New Spain, where he continued a conſiderable time, and then repaired to Porto Bello, to wait the arrival of the galleons, in order to return to Europe. While there, he officiated at maſs in his clerical character, when an event occurred, which finally produced his converſion to Proteſtantiſm. It is related by himſelf in the book above quoted, page 197, folio edition, as follows:

"While this traffic was," (alluding to the buſineſs carried on while the galleons lay there) "it happened unto me, that which I have formerly teſtified in my recantation ſermon at St. Paul's church, which, if by that means it have not come unto the knowledge of many, I deſire again to record it in this my hiſtory, that to all England it may be publiſhed; which was, that one day, ſaying maſs in the chief church, after the conſecration of the bread, being with my eyes ſhut at that mental prayer, which the church of Rome calleth "the Memento for their dead," there came from behind the altar a mouſe, which running about, came to the very bread or wafer-god of the Papiſts, and taking it in his mouth, ran away with it, not being perceived by any of the people who were at maſs, for that the altar was high, by reaſon of the ſteps going up to it, and the people far beneath. But as ſoon as I opened my eyes to go on with my maſs, and perceived my god ſtolen away, I looked about the altar, and ſaw the mouſe running away with it; which on a ſudden did ſo ſtupify me, that I knew not well what to do or ſay, and calling my wits together, I thought that if I

ſhould

ſhould take no notice of the miſchance, and any body elſe in the church ſhould, I might juſtly be queſtioned by the Inquiſition; but if I ſhould call to the people to look for the ſacrament, then I might but be chid and rebuked for my careleſſneſs, which of the two I thought would be more eaſily borne, than the rigour of the Inquiſition. Whereupon, not knowing what the people had ſeen, I turned myſelf unto them, and called them unto the altar, and told them plainly, that while I was in my memento prayers and meditations, a mouſe had carried away the ſacrament, and that I knew not what to do, unleſs they would help me to find it out again. The people called a prieſt that was at hand, who preſently brought in more of his coat, and as if their god by this had been eaten up, they preſently prepared to find out the thief, as if they would eat up the mouſe, that had ſo aſſaulted and abuſed their god; they lighted candles and torches, to find out the malefactor in his ſecret and hidden places of the wall; and after much ſearching and enquiry for the ſacrilegious beaſt, they found at laſt in a hole of the wall the ſacrament half eaten up, which with great joy they took out, and as if the ark had been brought again from the Philiſtines to the Iſraelites, ſo they rejoiced for their new-found god, whom, with many people, now reſorted to the church, with many lights of candles and torches, with joyful and ſolemn muſic, they carried about the church in proceſſion. Myſelf was preſent upon my knees, ſhaking and quivering for what might be done unto me, and expecting my doom and judgment; and as the ſacrament paſſed by me, I obſerved in it the marks and ſigns of the teeth of the mouſe, as they are to be ſeen in a piece of cheeſe gnawn and eaten by it.

"This ſtruck me with ſuch horror, that I cared not, at that preſent, whether I had been torn in a thouſand pieces for denying publicly that mouſe-eaten god. I called to my beſt memory all philoſophy concerning ſubſtance and accident, and reſolved within myſelf, that what I ſaw gnawn, was not an accident, but ſome real ſubſtance eaten and devoured by that vermin, which certainly was fed and nouriſhed by what it had eaten, and philoſophy well teacheth, *ſubſtantia cibi (non accidentis) convertitur in ſubſtantiam aliti*, the ſubſtance (not the accident of the food or meat) is converted and turned into the ſubſtance of the thing fed by it and alimented; now here I knew that this mouſe had fed upon ſome ſubſtance, or elſe how could the marks of the teeth ſo plainly appear? But no papiſt will be willing to anſwer that it fed upon the ſubſtance of Chriſt's body; *ergo*, by good conſequence it follows that it fed upon the

ſubſtance of bread; and ſo tranſubſtantiation here in my judgment was confuted by a mouſe; which mean and baſe creature God choſe to convince me of my former errors, and made me now reſolve upon what, many years before, I had doubted, that certainly the point of tranſubſtantiation taught by the church of Rome, is moſt damnable and erroneous; for beſide what before I have obſerved, it contradicteth that philoſophical axiom teaching that *duo contradictoria non poſſunt ſimul & ſemel de eodem verificari*, two contradictories cannot at once, and at the ſelf-ſame time, be ſaid and verified of the ſame thing; but here it was ſo; for here, in Rome's judgment and opinion, Chriſt's body was gnawn and eaten, and at the ſame time, the ſame body in another place, and upon another altar, in the hands of another prieſt, was not eaten and gnawn: Therefore here are two contradictories verified of the ſame body of Chriſt: To wit, it was eaten and gnawn, and it was not eaten and gnawn. Theſe impreſſions at that time were ſo great in me, that I reſolved within myſelf, that bread really and truly was eaten upon that altar, and by no means Chriſt's glorious body, which is in Heaven, and cannot be upon earth ſubject to the hunger or violence of a creature. Here again, I deſired with godly David, that I might have the wings of a dove, to fly into my country of England, and there be ſatisfied upon this point, and be at reſt of conſcience. Here I reſolved that if I had been queſtioned for my careleſſneſs, or for my contempt of that Romiſh ſacrament (which I thought would be the judgment of the Spaniards, who knew me to be an Engliſhman born) that I would ſacrifice willingly my life for the Proteſtant truth, which as yet I had been no otherwiſe taught, but by that ſpirit, which (as Solomon well obſerveth) in a man is the candle of the Lord. I conceived here that this was ſome comfort to my ſoul, which my good God would afford me in the way of my travelling to Canaan, that I might more willingly bear whatſoever croſſes yet might befall me in my way and journey to England. The event of this accident was not any trouble that fell upon me for it; for indeed the Spaniards attributed it unto the careleſſneſs of him, who had care of the altars in the church, and not to any contempt in me to the ſacrament. The part of the wafer that was left after the mouſe had filled her belly, was laid up after the ſolemn proceſſion about the church, in a tabernacle for that purpoſe, that afterward it might be eaten up by ſome hungry prieſt. And becauſe ſuch a high contempt had been offered by a contemptible vermin to their bread-god, it was commanded through Porto Bello that day,

 that

that all the people ſhould humble themſelves and mourn, and faſt with bread and water only. Although I ſaw I was not queſtioned for the caſe, yet I feared where there were ſo many ſoldiers and foreign people, that by ſome or other I might be miſchiefed out of their blind zeal, wherefore I thought it not amiſs for a day or two to keep within my lodging."

On his return to England, he heard of the death of his father who had diſtributed all his fortune among his other ſons and a daughter, without taking the leaſt notice of him, ſo that Thomas Gage was rendered dependent on his brothers and ſiſters for ſupport, and theſe were all rigid Catholics. Still, however, the ſcruples raiſed in his mind were not to be ſuppreſſed. He afterward went to Rome, having procured letters of recommendation to ſeveral of the cardinals there. When he had been there ſome time, he determined to viſit the famous ſhrine of the Virgin Mary at Loretto; his motives for which journey and the conſequences of it, he thus relates:

"I bethought myſelf further, that I would try one way, which was, to ſee if I could find out a miracle, which might give me better ſatisfaction of the Romiſh religion, than the former experience of my life had done, and the lives of the prieſts, cardinals, and all ſuch with whom I had lived in Spain and America. I had heard much of a picture of our lady of Loretto, and read in a book of miracles, or lies, concerning the ſame, that whoſoever prayed before that picture in the ſtate of mortal ſin, the picture would diſcover the ſin in the ſoul by bluſhing and by ſweating. Now I framed this argument to myſelf, that it was a great ſin, the ſin of unbelief, or to waver and ſtagger in points of faith; but in me (according to the tenets of Rome) was this ſin, for I could not believe the point of tranſubſtantiation, and many other; therefore, if the miracles which were printed of the foreſaid lady of Loretto were true, and not lies, certainly ſhe would bluſh and ſwear, when ſuch an unbeliever as I prayed before her. To make this trial I went purpoſely to Loretto, and kneeling down before God, not with any faith I had in the picture, I prayed earneſtly to the true ſearcher of all hearts, that in his ſon Jeſus Chriſt he would mercifully look upon me a wretched ſinner, and inſpire and enlighten me with his ſpirit of truth, for the good and ſalvation of my ſoul. In my prayer I had a fixed and ſettled eye upon the lady's picture, but could not perceive that ſhe did either ſweat or bluſh, wherewith I aroſe up from my knees, much comforted and encouraged in my reſolution to renounce and abandon popery, and ſaying within myſelf as I went out of

the church, ſurely if my lady neither ſweat nor bluſh, all is well with me, and I am in a good way for ſalvation, and the miracles written of her are but lies. With this I reſolved to follow the truth in ſome Proteſtant church in France, and to relinquiſh error and ſuperſtition. Upon which good purpoſe of mine, I preſently perceived the God of Truth did ſmile, with what I heard he was ordering in England by an army of Scotland, raiſed for reformation, and by a new Parliament called to Weſtminſter, at which I ſaw the Papiſts and Jeſuits there began to tremble, and to ſay that it would blaſt all their deſigns and all their hopes of ſettling popery."

After his ſecond return to England, he publicly embraced the Proteſtant faith, and preached his recantation ſermon at St. Paul's, which was printed, but a copy of it I never could procure. Being then reſcued from the ſhackles of celibacy, he married, and received from the Parliament the benefice of Deal in Kent, about the year 1650. The reader will find a farther account of him and his family in Lodge's Peerage of Ireland, vol. V. page 211. I am in poſſeſſion of a fine portrait of his daughter Penelope, who was my mother's grandmother, painted by Sir Peter Lely.

I am, Sir,

Your very humble ſervant,

J. PAYNE.

Marſham-ſtreet, February 10, 1792.

ORIGIN *of the* STATUTE *of* MORTMAIN.

IN the flouriſhing times of Popery, the clergy, ever ſince the introduction of Chriſtianity into this iſland, had been accumulating land and riches; inſomuch, that they had ſwelled, what was at firſt but a mole-hill, into a huge mountain. The enormous bulk of their poſſeſſions in the 13th century, and what they were daily acquiring from the miſtaken charity of that age, made it juſtly ſuſpicious, that they might, in another century, engroſs the whole. Beſide, it was well known that whatever lands they gained this way, they were from hence forward unalienable, and a *dead hand* was laid on them for ever. The laity had been long deſirous to ſtem this torrent; but they wanted a King of ſufficient reſolution to deſpiſe the thunder of the Vatican, and effectually to put a ſtop to thoſe dangerous proceedings. Such a King they found in that magnanimous

nimous Prince Edward the Firſt, who, in the year 1279, ſummoned a Parliament for that expreſs purpoſe. When he made the propoſal, it was received by the laity with univerſal joy; and the clergy durſt not oppoſe it, leſt a heavier blow ſhould fall upon them. In fine it was enacted, "that from henceforth none ſhould either give, ſell, bequeath, or change any lands, tenements, or rents, to any religious body, without licence from the King for that purpoſe."—This ſtatute was called the ſtatute of *mortmain*; becauſe it was intended to prevent eſtates from falling into *dead hands*; that is, hands of no ſervice to the King or the public, without hopes of ever changing their owners.

Sir William Blackſtone, ſpeaking of this ſtatute, ſays, "it cloſed the great gulph in which all the landed property of the kingdom was in danger of being ſwallowed up."

A REFLECTION.

HE is the trueſt Chriſtian and the beſt man, who does the moſt good, and has the leaſt malevolence in his heart. Theſe are more ſatisfactory proofs of being genuine diſciples of Chriſt than the moſt rigid profeſſion of certain principles, ſuppoſed to be founded on Scripture.

A HINT *to the* MARRIED.

AN Italian author, of conſiderable reputation, has obſerved, that one of the principal cauſes of the ſuperiority of the Jeſuits, while they exiſted, to all other exiſting communities, was the never-failing propriety of their attentions to each other. "The Jeſuits," ſays he, "with whom none can vie in the pleaſures of civil life, were exceedingly attentive to appear to each other in the moſt amiable light. The polite behaviour of the firſt day was uniformly preſerved by them during the many years that they continued together; ſo that the honey-moon of their conſociation, if this expreſſion may be allowed, laſted for their lives. This reciprocal compliſance, at firſt merely adopted, improved, by habit, into a ſolid and uninterrupted harmony, which even their numerous enemies allowed to be the foundation of that ſuperior reputation by which they eclipſed all the other orders." Ye lords of the creation—ye fair, to whoſe ſoft domination theſe lords unreluctantly ſubmit—be Jeſuits in this inſtance, at leaſt, and matrimony and happineſs may yet be ſynonymous.

For the WEEKLY ENTERTAINER.

A SPECIMEN *of* ORTHOGRAPHY.

Cr Ples to let the Man have the 9 hunderd of Bord Its hi Boght of you mondy laſt & Ples to Send me a Not with the Bord of the M[illegible]r and what the Bord do Coſt In ſo doing hi Remaine yr Cr

---

Anſwer, by J. M. A. near Sherborne, to T. Giles's Enigma, inſerted December 24.

YOU are certainly right, Sir, in what you have ſaid,
When we SLEEP we do greatly reſemble the dead.

‡ We have received the like anſwer from William Hooper, and W. Brewer, of Taunton; S. Hill, near Dawliſh; W. Bawden, and Eremita, of Weſton Zoyland; Thomas Croggan, and R. Uren junior, of Grampound; J. Bulgin, of Caſtle Carey; J. Traer, and E. Giddy, of Truro; W. Sinkins, of Dodbrook; Tyro, of St. Auſtell; S. Phillips, of Mr. Tucker's ſchool, Penryn; J. L. Clarke, of Honiton; T. Eames, near Ilminſter; P. Gove, of Exon; G. S. and Juventus, near Wiveliſcombe; T. Walker, of Hemyock; and T. Walker, near Wiveliſcombe.

Anſwer, by E. Giddy, of Truro, to Curioſus's Charade, inſerted December 24.

MAY-BUG's the inſect which you mean,
That in the ſummer's often ſeen.

A QUESTION, *by W. Upjohn, of Shafteſbury.*

ADMITTING the periphery of the baſe of a circular tower = 75.3984 yards, required the difference of the top and bottom diameter, at the height of 66 feet from the ſurface, ſuppoſing the ſides of the edifice are built exactly in a perpendicular direction, and the diameter of the earth = 7960 miles.

An ANAGRAM,

An ANAGRAM, *by J. Bulgin, of Castle Carey.*

A Town in Kent if you transpose;
A measure, Sir, it will disclose;
Once more transpose, and it will tell,
An English tree that's known full well;
One letter change, transpose again,
A female then you will obtain.

A CHARADE, *by J. K. C. near Wells*

MY first to study is inclin'd,
That sweet enchantress of the mind!
Whose penetrating pow'rs display
The mystic path, which leads the way
To learning's ever pleasing bow'r;
There glide away the ling'ring hour
Unheeded; while her magic charms,
The sting of ranc'rous care disarms;
There, wrapt in solitary veil,
The drooping muse resumes her artless tale!

Hail! thou my next, with learning crown'd,
For skill and knowledge much renown'd;
On whose vast worth each age and nation,
Have shower'd down peals of approbation;
To thy superior wisdom now,
Fair Albion's sons submissive bow.
Long may thy laurell'd temples grace
Our isle, possess'd of health and peace,
That while our foes midst carnage foam,
Britons may prize their happiness at home.

Now for my whole, which is with man
Throughout his short liv'd earthly span;
(And what alas! is mortal life
But one continued round of strife)
To day, perhaps, it gives him pleasure,
To morrow grief beyond all measure;
For as his life or good or bad is,
So it a blessing or a curse is;
May we then range our actions so,
That we its pangs may never, never know!

P O E T R Y.

For the WEEKLY ENTERTAINER.

Lines inſcribed to the Maſter of the happieſt Cottage in England.

IS Happineſs, coy nymph, to courts confined?
Dwells ſhe in glens, remov'd from gay mankind?
Equal is ſeen and chas'd the flying maid
In courts of kings, as in the rural ſhade:
Ever on wing, all ſprightly, debonair,
Ghoſt-like is here, and there, and every where;
Careſſes now the lord of acres large,
The peaceful tenant is anon her charge;
But, like the vain and contradictory fair,
Who courts her leaſt is ſure to be her care.
Thus, moſt capriciouſly, behold ſhe roves
And ſtops at unambitious *****'s groves.
Wiſe he detains her by a forceful tye,
Uniting to her ſire, Economy.
Theſe hold the ſway: There gaudy follies fade,
And quiet halcyons ſeek his grotto's ſhade.
The bluſhing Spring there ſtrews her flow'rets gay,
There Summer pleaſes e'en in Sirius' ray,
Autumn's rich ſheaves engage the village toil,
And blazing hearths make rigid Winter ſmile.

Hail, happy man! reſt long in poliſh'd eaſe,
Pleas'd in thyſelf, and willing all to pleaſe:
Whether thou draw'ſt the pencil, or the quill,
(The ſiſter arts, obedient to thy will)
Both charm alike, and gild the flying hours,
While thy all-lovely Clara's tuneful pow'rs,
Awake the Teian ſtrings delightful treat,
And all Olympus crowns thy rural ſeat.

P.

A SONG

A SONG *on the* TIMES.

HERE's a health to right honeſt John Bull,
  When he's gone, we ſhan't have ſuch another;
And with hearts and with glaſſes brim full,
  Here's a health to Old England, his mother.

She gave him a good education,
  Bade him keep to his Church and his King,
Be loyal and true to the nation,
  And then go be merry and ſing.

Now John is a very good fellow,
  Induſtrious, honeſt, and brave;
Not afraid of his betters when mellow,
  Since betters he knows he ſhould have.

For there muſt be fine lords and fine ladies,
  There muſt be ſome little, ſome great;
Their wealth the ſupply of our trade is,
  Our hands the ſupport of their ſtate.

Some are born for the court and the city,
  And ſome for the village and cot;
But oh! 'twere a dolorous ditty,
  If all become equal in lot.

If our ſhips had no pilots to ſteer,
  What would come of Poor Jack in the ſhrouds?
Or our troops no commanders to fear,
  They'd ſoon be arm'd robbers in crowds.

Then the plough and the loom muſt ſtand ſtill,
  If they made of us gentlemen all;
Or all clodhoppers—then who would fill
  The parliament, pulpit, and hall?

Rights of Man make a very fine ſound,
  Equal Rights is a very fine tale;
But whoſe labour would then till the ground,
  All would drink—but who'd brew the beſt ale?

When half naked, half ſtarv'd in the ſtreet,
  We were wandering about *ſans culottes*,
Would Equality go fetch us meat,
  Or Liberty lengthen our coats?

That knaves are for levelling, no wonder,
'Tis eaſy to gueſs at their views;
'Tis they would get all by the plunder,
'Tis they who have nothing to loſe.

Then away, ſuch nonſenſical ſtuff,
Full of treaſon, confuſion, and blood;
Ev'ry Briton has freedom enough
To be happy as long as he's good.

To be rul'd by a merciful King,
To be guarded by juries and laws,
And when the work's finiſh'd, to ſing,
"This, this is true Liberty's cauſe."

Then halloo, boys! halloo, boys! for ever,
For juſt ſuch a nation are we;
'Tis our pleaſure—O may it ceaſe never,
'Tis our pride to be loyal and free.

To INNOCENCE.

By PETER PINDAR, *Eſq.*

DEAR Innocence, where'er thou deign'ſt to dwell,
The pleaſures ſport around thy ſimple cell;
The ſong of Nature melts from grove to grove;
Perpetual ſunſhine ſits upon thy vale;
Content and ruddy Health thy hamlet hail,
And Echo waits upon the voice of Love.

But where—but where is ſcowling Guilt's abode?
The ſpect'red heath, and Danger's cavern'd road;
The ſhuffling monſter treads with panting breath—
The cloud-wrapp'd ſtorm inſulting roars around,
Fear pales him at the thunder's awful ſound.
He ſtares with horror on the flaſh of death.

He calls on Darkneſs with affright,
And bids her pour her deepeſt night;
Her clouds impenetrable bring,
And hide him with her raven wing!

Are theſe the pictures? Then I need not muſe,
Nor gape, nor ponder which to chooſe—
Oh Innocence! this inſtant I'm thy ſlave—
What but the greateſt fool would be a knave?